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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,412	02/12/2004	Philip D. Nguyen	2002-IP-006415U1P1D1	4317
71407	7590	07/14/2008		
ROBERT A. KENT P.O. BOX 1431 DUNCAN, OK 73536			EXAMINER METZMAIER, DANIEL S	
			ART UNIT	PAPER NUMBER
			1796	
			NOTIFICATION DATE	DELIVERY MODE
			07/14/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ROBERT.KENT1@HALLIBURTON.COM
Tammy.Knight@Halliburton.com

Office Action Summary	Application No. 10/777,412	Applicant(s) NGUYEN ET AL.	
	Examiner Daniel S. Metzmaier	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 & 26 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,29,31,37 and 44-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,29,31,37 and 44-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/31/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 21, 29, 31, 37 and 44-48 are pending.

Information Disclosure Statement

References to US patents and PG PUBs previously considered in IDS filed May 30, 2006.

Election/Restrictions

1. Applicant's election without traverse of metal salts as the tracking chemical in the reply filed on 10/24/06 is acknowledged. Claims 21, 29, 31, 37 and 44-48 read on the elected species.

The election was noted as a specific salt or a specific organic compound. As an organic salt is an organic compound and applicants have elected metal salts, organic compounds, i.e., organic salts are withdrawn as non-elected species.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 1796

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21, 29, 44-45 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Dewprashad, US 5,420,174.

Dewprashad (column 1, lines 26 et seq; and claims) discloses it is common in the treatment of formations to coat or encapsulate proppants with natural or synthetic film-forming materials. Dewprashad further discloses the resin coated proppant in aqueous gelled fluids formed by cross-linking rheological agents with conventional crosslinkers comprising aluminum and titanium cross-linking agents. These are conventionally in the form of soluble salts. Dewprashad (column 2, lines 16 et seq) further teaches metal salts may be incorporated as gel breakers in the form of lithium hypochlorite.

The resin coated proppant would be further gel coated with a metal salt crosslinked gel and/or include a further gel breaker. Applicants do not distinguish the Applicant's intended use as a proppant with tracking material does not distinguish (In re Pearson 181 USPQ 641).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 21, 29, 31, 37 and 44-48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Armbruster, US 4,785,884.

Armbruster (abstract; column 1, lines 9 et seq; column 3, lines 35 et seq; particularly lines 58-60; column 5, lines 8-24; examples and claims) disclose the coating of proppants with resin employing catalyst salts at up to 10 % by weight including at least phosphorous salts of ammonium or amines among others.

To the extent the Armbruster reference differs in the disclosure of the catalyst with sufficient specificity, it would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ known acid salts of phosphorous and ammonium or amines among other salts as catalyst taught in the Armbruster reference for the advantageous Armbruster taught catalytic function as clearly contemplated therein.

Response to Arguments

Applicant's arguments filed 31 March 2008 have been fully considered but they are not persuasive.

7. Applicants assert the Dewprashad reference does not disclose a particulate coated with a tracking materials and a resin. This has not been deemed persuasive. Applicants state: "Dewprashad discloses that proppant may be coated with a resole-type phenolic resin, placed in a gelled fluid" (emphasis added). More specifically, applicants do not define the degree, thickness or type of the coating *per se*. Applicants admit the proppants are coated with resin and in a gel. Said gels are cross-linked with titanium or aluminum. Titanium salts are inherent to the formation of the gels and read on the claims.

8. Applicants assert the Armbruster reference has been obviated by the amendment. This has not been deemed persuasive since the Armbruster reference discloses phosphorous salts, which the claims read.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (571) 272-1089. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Daniel S. Metzmaier/
Primary Examiner, Art Unit 1796**

DSM